

FIRST REGULAR SESSION

SENATE BILL NO. 552

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time March 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1836S.01I

AN ACT

To repeal sections 383.160 and 383.165, RSMo, and to enact in lieu thereof two new sections relating to the medical malpractice joint underwriting association.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 383.160 and 383.165, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 383.160 and 383.165, to read as follows:

383.160. 1. All association policies of insurance shall be written [so as to apply to injury which results from acts or omissions occurring during the policy period] **to provide medical malpractice insurance coverage as determined by the directors of the association including, but not limited to, coverage written on a claims-made, an occurrence, or a prior-acts basis.** No policy form shall be used by the association unless it has been filed with the director and approved or thirty days have elapsed and he has not delivered to the board written disapproval of it as misleading or not in the public interest. The director shall have the power to disapprove any policy form previously approved if found by him after hearing to be misleading or not in the public interest.

2. Cancellation of the association's policies shall be governed by law.

3. The rates, rating plans, rating rules, rating classifications and territories applicable to the insurance written by the association and statistics relating thereto shall be subject to the casualty rate regulation law giving due consideration to the past and prospective loss and expense experience in medical malpractice insurance of all of the insurers, trends in the frequency and severity of losses, the investment income of the association, and such other information as the director may require. All rates shall be actuarially sound and shall be calculated to be self-supporting.

4. In the event sufficient funds are not available for the sound financial operation of the association, additional funds shall be raised by making an assessment on all member

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

companies. Assessments shall be made against members in the proportion that the net direct premiums for the preceding calendar year of each member for each line of insurance requiring it to participate in said plan bear to the net direct premiums for the preceding calendar year of all members for such line of insurance; provided that, assessments made pursuant to sections 383.150 to 383.195 shall not exceed in any calendar year one percent of each member's net direct premiums attributable to the line or lines of insurance the writing of which requires it to be a member.

5. All members shall deduct the amount of any assessment from past or future premium taxes due but not yet paid the state.

6. Any funds which result from policyholder premiums and other revenues received in excess of those funds required for reserves, loss payments and expenses incurred and accrued at the end of any calendar year shall be paid proportionately to the general fund to the extent that credit against premium tax liability has been granted pursuant to subsection 5 and to members which have been assessed but have not received tax credits as provided in subsection 5.

383.165. **The directors of the association shall determine the extent to which each policyholder shall pay to the association in the first policy year, in addition to the premium payment due for insurance through the association, a surcharge in an amount less than or equal to [said] the policyholder's premium payment. Such charge shall be separately stated in the policy. The directors of the association may determine what methods of payment of said surcharge shall be acceptable, and the directors shall have the authority to use any amounts collected through activities of the association, including refunding such amounts where appropriate. Any decision of the board to refund previously collected surcharge amounts may be applicable to any surcharges paid into the association since its inception.**

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